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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

NAPCO, INC.,

Opposer,

v.

PAPA JOHN'S INTERNATIONAL, INC.

Applicant.

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Opposition No.



01-14-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

NOTICE OF OPPOSITION

To: Assistant Commissioner of Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

Dear Sir:

In the matter of the application for registration of the alleged mark PAPA POINTS, for "restaurant services" in International Class 42, Serial No. 76/031,210, filed on April 21, 2000, by Papa John's International, Inc. (hereinafter "applicant"), and published on page TM604 of the October 9, 2001, edition of the Official Gazette of the United States Patent and Trademark Office, Napco, Inc. (hereinafter "opposer"), an Illinois corporation, located and doing business at 1211 Lyon Road, Batavia, IL 60510 that it will be damaged by the registration of the mark shown in the application, and, therefore, opposes the same. The grounds for this opposition are as follows:

1. Opposer has been engaged for many years in the business of manufacturing and distributing, throughout the U.S., packaged gourmet coffee beans.

2. Prior to April 21, 2000, the filing date of the above intent to use application for the mark PAPA POINTS, opposer adopted and used in interstate commerce the mark PAPA•POINTS for "coffee" in class 30 and for "promoting the sale of coffee through the administration of incentive award programs" in Class 35, and opposer has continuously

used, and is now using in commerce the mark PAPA•POINTS in connection with such goods and services.

3. Opposer is the owner of U.S. Application Serial No. 76/176,741, filed December 6, 2000, for the mark PAPA•POINTS. The application alleges a date of first use of September 8, 1998. An Office Action dated April 19, 2001 received in connection with opposer's application Serial No. 76/176,741, states that applicant's pending application Serial No. 76/031,210, if it matures to a registration, may be cited as a bar to opposer's application Serial No. 76/176,741.

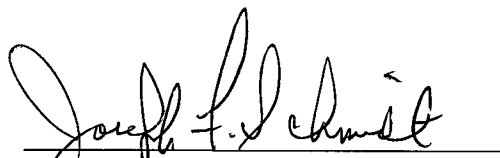
4. As a result of opposer's use of the mark PAPA•POINTS, the mark has become recognized by the trade and public as identifying opposer's goods and services and distinguishing them from the goods and services of others.

5. The mark PAPA POINTS sought to be registered by applicant is identical to opposer's mark PAPA•POINTS. Applicant seeks to register the mark PAPA•POINTS for goods identical or closely related to those goods in connection with which opposer uses its mark. The goods of applicant and the goods of opposer are sold through the same channels of trade to the same customers.

6. Opposer believes that applicant's alleged mark PAPA POINTS, when applied to the services of applicant, so resembles opposer's mark PAPA•POINTS as to be likely to cause confusion, or to cause mistake, or to deceive, all to opposer's irreparable damage and injury.

WHEREFORE, opposer prays that this opposition be sustained and that registration of applicant's mark be refused.

Dated: January 11, 2002

A handwritten signature in black ink, appearing to read "Joseph F. Schmidt", written over a horizontal line.

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